

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BERNARD KEITH JONES,

Plaintiff,

v.

Case No. 17-C-1265

THOMAS MARCUS, DORIAN WHITTENBERGER,
& MILWAUKEE POLICE DEPARTMENT,

Defendants.

Order Adopting Report and Recommendation

Plaintiff Bernard Jones, proceeding *pro se*, filed a complaint under 42 U.S.C. § 1983, alleging that the defendants deprived him of his civil rights under the color of law. On October 2, 2017, Magistrate Judge David E. Jones filed his Report and Recommendation screening Plaintiff's claims pursuant to 28 U.S.C. § 1915(e)(2)(B). ECF No. 5. Magistrate Judge Jones found that Plaintiff could proceed on a § 1983 claim against Defendants Marcus and Whittenberger in their individual capacities and ordered service of these defendants.

Magistrate Judge Jones referred the case to a district court judge on his recommendation that Plaintiff's claim against the Milwaukee Police Department be dismissed for failure to state a claim under § 1983 that could be brought against a municipality. *See Coleman v. Labor & Indus. Review Comm'n of Wis.*, 860 F.3d 461 (7th Cir. 2017) (holding that a magistrate judge may not dismiss a complaint unless all parties have consented to jurisdiction). Magistrate Judge Jones recommended dismissal because Plaintiff failed to allege the deprivation of rights caused by either (1) a particular policy or entity-wide practice or custom; (2) a particular failing of an entity, such as a failure to train

or supervise; or (3) a particular decision by a senior official of an entity that can be construed as a entity-wide custom or policy. *See Hoskins v. City of Milwaukee*, 994 F. Supp. 2d 972, 979 (E.D. Wis. 2014) (quotations omitted). Therefore, Magistrate Judge Jones recommended that the claim against Milwaukee Police Department be dismissed for failure to state a claim.

Plaintiff was given fourteen days from Magistrate Judge Jones' report and recommendations to file any objections. That deadline has passed and Plaintiff has proffered no objections. Because no objection was made, I review Magistrate Judge Jones' report for clear error. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Upon review, I find no clear error in either the report or the recommendation.

IT IS THEREFORE ORDERED that the Court **ADOPTS** Magistrate Judge Jones' Report and Recommendation. ECF No. 5.

IT IS FURTHER ORDERED that plaintiff's claim against the Milwaukee Police Department is **DISMISSED**.

IT IS FURTHER ORDERED this case is **REFERRED** back to Magistrate Judge David E. Jones for further proceedings.

Dated this 31st day of October, 2017.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court